

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA )  
                                )  
                                ) 07 CV 6321  
v.                             )  
                                ) Judge Wayne R. Andersen  
ANGEL FIGUEROA             )  
                                )  
                                )  
                                )

**GOVERNMENT'S MOTION FOR LIMITED DISCLOSURE PURSUANT TO  
FEDERAL RULE OF CRIMINAL PROCEDURE 6(e)(2)(E)(i)**

The UNITED STATES OF AMERICA, by PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, respectfully moves this Court to authorize limited disclosure of Government's Motion for Extension of Time In Which to Return Indictment. In support of this motion, the government states as follows:

**FACTUAL BACKGROUND**

On April 30, 2002, Angel Figueroa was arrested and charged by complaint with conspiring to distribute heroin. At his initial appearance later that day, Figueroa was detained pending trial. On May 24, 2002, the government filed a Motion for Extension of Time in Which To Return Indictment ("Motion"). On May 29, 2002, Acting Chief Judge Charles P. Kocoras granted the Motion, extending the time to file an indictment to July 30, 2002. On July 18, 2002, Figueroa was released on bond. On July 26, 2002, the government filed a Second Motion for Extension of Time in Which To Return Indictment ("Second Motion"). On July 27, 2002, Acting Chief Judge Ruben Castillo granted the Second Motion, extending the time to file an indictment to September 30, 2002. On September 24, 2002, Figueroa was charged by indictment with one count of conspiring to distribute heroin, one count of possessing heroin with intent to distribute and one count of

possessing firearms in furtherance of a drug trafficking crime. On March 23, 2004, Figueroa was convicted of conspiring to distribute heroin.<sup>1</sup> On July 7, 2006, Figueroa was sentenced to 240 months' imprisonment and five years' supervised release.

On direct appeal, Figueroa argued for the first time that his indictment should have been dismissed under the Speedy Trial Act. *United States v. Figueroa*, 228 Fed. Appx. 661, 612 (7<sup>th</sup> Cir. 2007). The Seventh Circuit held that Figueroa waived his rights under the Speedy Trial Act and concluded that Figueroa's contention that he could not have acted before trial because he was not aware of the purported statutory violations was frivolous. *Id.* The Seventh Circuit found against Figueroa in all respects and affirmed the district court's judgment on April 19, 2007. *Id.* at 613.

On November 7, 2007, Figueroa filed a motion for relief under 28 U.S.C. § 2255, raising the same claims he made on direct appeal. Figueroa also contends that his counsel was ineffective for failing to move to dismiss the indictment under the Speedy Trial Act. Figueroa has requested that the government move to disclose the Motion prior to his filing of a reply brief.

### **ARGUMENT**

Defendant's claim is based largely upon the non-existence of the Motion for Extension of Time in Which To Return Indictment, which does exist and is in the government's files. Although the government has repeatedly assured the defendant that the Motion exists, and has produced the Notice of Motion—which defense counsel received when the Motion was filed—the defendant has requested the government move to disclose the Motion prior to his filing of a reply brief.

FRCP 6(e)(2)(E)(i) permits the Court to authorize disclosure “at a time, in a manner, and

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<sup>1</sup> The jury could not reach a verdict on the possession with intent to distribute charge and found Figueroa not guilty on the firearms charge.

subject to any other conditions that it directs” of grand jury material “preliminary to or in connection with a judicial proceeding.” The Motion contains sensitive information related to the investigation. Accordingly, the government asks that this Court authorize disclosure of the Motion to the defendant subject to appropriate redaction to ensure non-disclosure of sensitive information.

WHEREFORE, the United States respectfully moves that the Court authorize disclosure of the Motion, with appropriate redaction to ensure non-disclosure of sensitive information.

Respectfully submitted,

PATRICK J. FITZGERALD  
United States Attorney

By: s/ Renato Mariotti  
RENATO MARIOTTI  
Assistant United States Attorney  
219 South Dearborn Street, 5th Floor  
Chicago, Illinois 60604  
(312) 886-7855

**CERTIFICATE OF SERVICE**

The undersigned Assistant United States Attorney hereby certifies that the following document:

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was served on April 29, 2008, in accordance with FED. R. CRIM. P. 49, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the district court's system as to ECF filers.

By: s/ Renato Mariotti  
Renato Mariotti  
Assistant U.S. Attorney  
219 S. Dearborn Street, 5th Floor  
Chicago, Illinois 60604  
(312) 886-7855